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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,901	08/27/2003	John Conaway Rush SR.	11779-0027-999	5072
20583	7590	03/09/2010	EXAMINER	
JONES DAY 222 EAST 41ST ST NEW YORK, NY 10017			CHIN, RANDALL E	
ART UNIT	PAPER NUMBER			
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03/09/2010	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/648,901	<b>Applicant(s)</b> RUSH ET AL.
	<b>Examiner</b> Randall Chin	<b>Art Unit</b> 3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 23 December 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-6 and 8-21 is/are pending in the application.

4a) Of the above claim(s) 6 is/are withdrawn from consideration.

5) Claim(s) 4,5,12-16,19 and 20 is/are allowed.

6) Claim(s) 1-3,8-11,17,18 and 21 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 9-11, 17 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Liebrecht 3,837,030 (hereinafter Liebrecht).

As for claim 1, the patent to Liebrecht discloses in the Figure a tractor or "truck" mounted rotating broom system (col. 1, lines 3-6) comprising a rotating broom mounting and control assembly 11, 12 operable to have a rotating broom mounted thereto, a support structure 22 mountable to a truck, and a non-rigid, non-load bearing connection defined by arms 25, 26 there between.

As for claim 2, said support structure 22 includes a substantially stationary gooseneck assembly defined by mast 19 and strut 20, and a swinging trunnion assembly defined by girder member 16 rotatably connected to said substantially stationary gooseneck assembly.

As for claim 3, said non-rigid connection includes a floating spring or beam 51, 52 and a four bar linkage connection 37-40 between said support structure and said rotating broom mounting and control assembly 11, 12.

As for claim 9, the point of rotation at 15 of a rotating broom mounted to the rotating broom mounting and control assembly 11, 12 is located on the centerline of a chassis of a truck to which the rotating broom system is mounted.

As for claim 10, the support structure 22 is deemed to allow center point sweeping to the left or right of a truck to which the rotating broom system is mounted.

As for claim 11, the support structure 22 provides center point oscillation (a broad phrase) of the rotating broom mounting and control assembly.

As for claim 17, there is provided a substantially cylindrical rotating broom 10 mounted to the rotating broom mounting and control assembly 11, 12.

As for claim 21, the non-rigid connection comprises a float stop defined by stops 47, 48 (col. 2, lines 10-15) to control the up and down movement of a rotating broom mounted to the rotating broom mounting and control assembly.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liebrecht.

]As for claim 18 reciting that the rotating broom has a diameter ranging from about three to four feet and a length of about 18 feet, changes in size are generally

recognized as being within the level of ordinary skill and would have been obvious (if not already) depending on the particular cleaning task at hand.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 8-11 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Jackson 6,446,297 (hereinafter Jackson).

As for claim 1, the patent to Jackson discloses in Figs. 1, 2, 3 and 4, for example, a vehicle or "truck" 1 mounted rotating broom system (col. 4, lines 53-54) comprising a rotating broom mounting and control assembly (not explicitly labeled but can be seen in Fig. 2 as the housing assembly surrounding or covering brush 3) operable to have a rotating broom mounted thereto, a support structure 8 mountable to a truck (Fig. 1), and a non-rigid, non-load bearing connection merely defined by linkage 14 and ball joints 15, 16 there between.

As for claim 8, the rotating broom mounting and control assembly comprises a pair of caster wheel assemblies (Figs. 2 and 3) symmetrically positioned about the non-rigid connection to support the weight of the rotating broom mounting and control assembly.

As for claim 9, the point of rotation at axis of rotation 5 (Fig. 2) of a rotating broom mounted to the rotating broom mounting and control assembly is located on the centerline of a chassis of a truck to which the rotating broom system is mounted.

As for claim 10, the support structure 8 is deemed to allow center point sweeping to the left or right of a truck to which the rotating broom system is mounted.

As for claim 11, the support structure 8 provides center point oscillation (a broad phrase) of the rotating broom mounting and control assembly.

As for claim 17, there is provided a substantially cylindrical rotating brush or broom 3 mounted to the rotating broom mounting and control assembly.

mounted to the rotating broom mounting and control assembly.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson.

As for claim 18 reciting that the rotating broom has a diameter ranging from about three to four feet and a length of about 18 feet, changes in size are generally recognized as being within the level of ordinary skill and would have been obvious (if not already) depending on the particular cleaning task at hand.

***Allowable Subject Matter***

8. Claims 4, 5, 12-16, 19 and 20 are allowed.

**Conclusion**

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Wagner, Hirst, Joynt, and Smith are relevant to various truck mounted rotating broom systems.

10. Applicant's arguments with respect to claims 1-5 and 8-21 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randall Chin whose telephone number is (571) 272-

1270. The examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randall Chin/  
Primary Examiner, Art Unit 3723